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# Disability Rights Washington

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

CHRISTOPHER SENN; JASON )  
BEWLEY; JERED FULLEN, )  
DISABILITY RIGHTS WASHINGTON, )  
and JEWELS HELPING HANDS, )  
Plaintiffs, )  
vs. )  
CITY OF SPOKANE, a municipal )  
corporation; SPOKANE COUNTY, a )  
municipal corporation; OZZIE )  
KNEZOVICH, in his official capacity as )  
Spokane County Sheriff; CRAIG MEIDL,)  
in his official capacity as Spokane Police )  
Chief; )  
Defendants. )

NO. 2:22-cv-254-SAB

PLAINTIFFS' EX PARTE  
APPLICATION FOR  
TEMPORARY RESTRAINING  
ORDER AND ORDER TO  
SHOW CAUSE WHY A  
PRELIMINARY INJUNCTION  
SHOULD NOT ISSUE

**PLAINTIFFS' APPLICATION FOR TEMPORARY  
RESTRAINING ORDER; 1**

**KSB LITIGATION, P.S.**  
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1 Pursuant to Federal Rule of Civil Procedure 65, Plaintiffs ask the Court to  
2 issue an *ex parte* temporary restraining order to preserve the status quo until the  
3 Court rules on Plaintiffs' motion for preliminary injunction and prevent irreparable  
4 harm to Plaintiffs and the exceptionally vulnerable residents of Camp Hope. This  
5 application is made on the grounds set forth in the accompanying Amended  
6 Motion for Preliminary Injunction filed herewith; all pleadings and papers filed in  
7 this action; the argument of counsel; and further evidence as the Court may  
8 consider at or before a hearing regarding this Application or the hearing regarding  
9 the Order to Show Cause and preliminary injunction requested herein.

10 Despite the filing of the present action and a pending motion for preliminary  
11 injunction, Defendants have recently taken active and vigorous steps to initiate an  
12 immediate sweep of all residents of Camp Hope, to include a massive police and  
13 sheriff presence and the distribution of leaflets telling residents that a sweep is  
14 imminent. Defendants have not provided a date on which they intend to sweep,  
15 meaning that it could occur at any time and prior to any judicial review of the  
16 constitutionality of the sweep. Plaintiffs thus have no remedy available at law other  
17 than this request for a TRO to prevent the violation of constitutional rights, loss of  
18 personal property, and significant harm to residents, especially those with  
19 disabilities.

20 Plaintiffs incorporate the facts and evidence already presented in their initial  
21 Motion for Preliminary Injunction (ECF No 4) and evidence filed therewith, their  
22 Amended Complaint (ECF No. 14), and the Amended Motion for Preliminary

PLAINTIFFS' APPLICATION FOR TEMPORARY  
RESTRANING ORDER: 2

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1 Injunction filed herewith, all of which set forth the needs and rights of the residents  
 2 of Camp Hope and the efforts made by Defendants to remove residents from the  
 3 camp. In addition to the events described in these pleadings, Plaintiffs bring to the  
 4 Court's attention recent events occurring on December 6, 2022, that signal  
 5 Defendants' imminent threat to remove all residents by force.

6 On December 6, more than a dozen<sup>1</sup> uniformed officers from the Spokane  
 7 County Sheriff's Office, as well as the Spokane and Spokane Valley police  
 8 departments, arrived in force at Camp Hope to deliver flyers to residents. *See*  
 9 Appendix A; <https://www.spokesman.com/stories/2022/dec/06/this-camp-is-to-be-closed-confusion-frustration-af/>. The flyer states: "This Camp is to be closed." *Id.*

11 The flyers and public statements made by Defendants do not provide  
 12 residents of Camp Hope with a specific date on which Defendants intend to  
 13 forcibly remove the residents from their current homes. *Id.* Mark Gregory, public  
 14 information officer for the Spokane Sheriff's Office, explained that this was an  
 15 intentional decision, stating to the media: "We're never going to say when we're  
 16 going to – if we had to – go down and close the camp, because that wouldn't be  
 17 smart of us to do." *Id.* Mr. Gregory continued: "The camp is going to be closed,  
 18 but we want to do it without ever using law enforcement to move people out of the  
 19 camp . . . (A sweep) is not our goal, but if we have to, we will do that." *Id.*

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21 <sup>1</sup> Some at the camp estimated the number of officers and deputies to be as high as  
 22 40. *See* <https://www.spokesman.com/stories/2022/dec/06/this-camp-is-to-be-closed-confusion-frustration-af/>

1 Plaintiffs and other residents at Camp Hope thus face imminent and  
 2 irreparable harm from a planned law enforcement sweep. As described in the  
 3 recent newspaper article cited above and further explained in the Declaration of  
 4 Julie Garcia (ECF No. 8), shelters in this area do not have nearly enough space to  
 5 house all the residents of Camp Hope, let alone all unsheltered homeless in the  
 6 community. *Id.* Per data collected by news reporting, there are around 150 beds  
 7 available throughout the entire regional shelter system, while the number of  
 8 homeless residents of Spokane County was estimated to be around 1,750 people in  
 9 2022. [https://www.spokesman.com/stories/2022/dec/06/this-camp-is-to-be-closed-](https://www.spokesman.com/stories/2022/dec/06/this-camp-is-to-be-closed-confusion-frustration-af/)  
 10 [confusion-frustration-af/](#). A recent estimate from the Washington State  
 11 Department of Commerce based on services provided to homeless people, puts the  
 12 number of unhoused people in Spokane County much higher at more than 14,000  
 13 residents, or around 2.5% of all residents. *Id.*

14 Because there is inadequate shelter space, a sweep of Camp Hope will push  
 15 residents into other parts of the community where they will remain unsheltered and  
 16 exposed to the elements but without the services, security, and support they receive  
 17 at Camp Hope. *See, e.g.* decls. Fullen ¶ 4; Senn ¶¶ 5-7, Garcia ¶¶ 19-22 (ECF Nos.  
 18 5-8). A sweep would especially harm individuals with disabilities who are  
 19 sometimes not permitted to enter congregate care facilities or cannot get their  
 20 essential needs met in these facilities. *See, e.g.*, Decl. Garcia ¶¶ 19-23 (ECF No. 8).  
 21 Disabled residents would be forced to sleep outside in the winter or in an  
 22

1 institution rather than in their current protective community with integrated  
 2 services, warming centers, and social support. *Id.*

3 Undersigned Counsel for Plaintiffs, Jeffry Finer, hereby certifies, pursuant to  
 4 FRCP 65(b)(1)(B), that he has previously advised counsel for Spokane County and  
 5 City of Spokane of Plaintiffs' intention to seek preliminary injunctive relief, as he  
 6 filed and served a motion for preliminary injunctive relief on November 6, 2022.  
 7 ECF No. 4. Defense counsel indicated to the undersigned that there was no need  
 8 for an immediate hearing because there existed no immediate plans to sweep the  
 9 camp. However, the recent issuance of notices to residents that the camp will be  
 10 imminently closed and swept, with no date provided, makes clear that previous  
 11 indications from defense counsel regarding timing are no longer in effect and  
 12 immediate injunctive relief is necessary. Additional efforts to give notice to  
 13 Defendants should not be required because they have already had a month of  
 14 notice, have not responded to the initial motion for preliminary injunction, and  
 15 have since taken steps to indicate that the planned sweep could occur at any time.

16 TROs "preserve the status quo pending a hearing." *Hoffman v. Int'l*  
 17 *Longshoremen's & Warehousemen's Union, Local No. 10*, 492 F.2d 929, 933 (9<sup>th</sup>  
 18 Cir. 1974), aff'd sub nom. *Muniz v. Hoffman*, 422 U.S. 454 (1975). This is all  
 19 Plaintiffs seek here – the opportunity to stay in their homes and keep their  
 20 possessions, without the threat of forcible removal, while the parties and Court  
 21 adequately consider the merits of the constitutional and legal claims made by  
 22 Plaintiffs in this matter.

PLAINTIFFS' APPLICATION FOR TEMPORARY  
 RESTRAINING ORDER: 5

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1 Plaintiffs should not be required to provide a bond or other security under  
2 FRCP 65(c) because no costs or damages will be incurred by Defendants based on  
3 the issuance of a TRO. Where there is no likelihood of harm to the party enjoined,  
4 the requirement to post a bond may be dispensed with entirely. *Barahona-Gomez*  
5 *v. Reno*, 167 F.3d 1228, 1237 (9th Cir. 1999).

6 Thus, Plaintiffs seek a TRO:

7 (a) Temporarily restraining Defendants from arresting and/or removing  
8 residents of Camp Hope from their current location, or seizing their  
9 property, without specific and individualized probable cause to arrest  
10 a person for a criminal offense unrelated to an order given by  
11 Defendants to disband, move, or otherwise leave Camp Hope;  
12 (b) Temporarily restraining Defendants from conducting any helicopter  
13 overflights of Camp Hope and/or from utilizing infrared imaging or  
14 similar technology to surveil or record the residents of Camp Hope,  
15 without first obtaining a judicial warrant for such a search.

16 DATED this 7<sup>th</sup> day of December, 2022.

17 /s/ Jeffry Finer

18 JEFFRY K. FINER, WSBA NO. 14610  
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8 *Attorneys for Plaintiffs*

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PLAINTIFFS' APPLICATION FOR TEMPORARY  
RESTRANDING ORDER: 7

KSB LITIGATION, P.S.  
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CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing  
PLAINTIFFS' EX PARTE APPLICATION FOR TEMPORARY RESTRAINING  
ORDER AND ORDER TO SHOW CAUSE WHY A PRELIMINARY  
INJUNCTION SHOULD NOT ISSUE to be served via the method listed below to  
the following:

<u>NAME &amp; ADDRESS</u>	<u>Method of Delivery</u>
<u>James Bernard King on behalf of</u> <u>CITY OF SPOKANE</u>	<input checked="" type="checkbox"/> CM/ECF System
<u>James Bernard King on behalf of</u> <u>Craig Meidl</u>	<input checked="" type="checkbox"/> CM/ECF System
<u>F Dayle Andersen, Jr on behalf</u> <u>of SPOKANE COUNTY</u>	<input checked="" type="checkbox"/> CM/ECF System
<u>F Dayle Andersen, Jr on behalf</u> <u>of Ozzie Kenezovich</u>	<input checked="" type="checkbox"/> CM/ECF System

DATED this 7th day of December 2022.

/s Andrew Biviano

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## Appendix A

